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8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 4209

13 **JEANNETTE PADILLA**
714 Grand Street D
Nipomo, CA 93444

A C C U S A T I O N

14 **Pharmacy Technician License**
15 **No. TCH 103465**

Respondent.

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17 Complainant alleges:

18 **PARTIES**

19 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity
20 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

21 2. On or about June 29, 2010, the Board of Pharmacy (Board) issued Pharmacy
22 Technician License No. TCH 103465 to Jeannette Padilla (Respondent). The Pharmacy
23 Technician License was in full force and effect at all times relevant to the charges brought herein
24 and will expire on March 31, 2014, unless renewed.

25 **JURISDICTION**

26 3. This Accusation is brought before the Board under the authority of the following
27 laws. All section references are to the Business and Professions Code unless otherwise indicated.

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1 "(f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or
2 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and
3 whether the act is a felony or misdemeanor or not.

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5 "(l) The conviction of a crime substantially related to the qualifications, functions, and
6 duties of a licensee under this chapter. The record of conviction of a violation of Chapter 13
7 (commencing with Section 801) of Title 21 of the United States Code regulating controlled
8 substances or of a violation of the statutes of this state regulating controlled substances or
9 dangerous drugs shall be conclusive evidence of unprofessional conduct. In all other cases, the
10 record of conviction shall be conclusive evidence only of the fact that the conviction occurred.
11 The board may inquire into the circumstances surrounding the commission of the crime, in order
12 to fix the degree of discipline or, in the case of a conviction not involving controlled substances
13 or dangerous drugs, to determine if the conviction is of an offense substantially related to the
14 qualifications, functions, and duties of a licensee under this chapter. A plea or verdict of guilty or
15 a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning
16 of this provision. The board may take action when the time for appeal has elapsed, or the
17 judgment of conviction has been affirmed on appeal or when an order granting probation is made
18 suspending the imposition of sentence, irrespective of a subsequent order under Section 1203.4 of
19 the Penal Code allowing the person to withdraw his or her plea of guilty and to enter a plea of not
20 guilty, or setting aside the verdict of guilty, or dismissing the accusation, information, or
21 indictment."

22 REGULATORY PROVISIONS

23 8. California Code of Regulations, title 16, section 1770 states, in pertinent part:

24 "For the purpose of denial, suspension, or revocation of a personal or facility license
25 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a
26 crime or act shall be considered substantially related to the qualifications, functions or duties of a
27 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a

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1 licensee or registrant to perform the functions authorized by his license or registration in a manner
2 consistent with the public health, safety, or welfare."

3 COST RECOVERY

4 9. Section 125.3 states, in pertinent part, that the Board may request the administrative
5 law judge to direct a licensee found to have committed a violation or violations of the licensing
6 act to pay a sum not to exceed the reasonable costs of the investigation and enforcement of the
7 case.

8 FIRST CAUSE FOR DISCIPLINE

9 (Convictions of Substantially Related Crimes)

10 10. Respondent is subject to disciplinary action under sections 4301, subdivision (l) and
11 490, in conjunction with California Code of Regulations, title 16, section 1770, in that
12 Respondent has been convicted of a crime substantially related to the qualifications, functions or
13 duties of a pharmacy technician. On or about July 12, 2011, after pleading nolo contendere,
14 Respondent was convicted of one misdemeanor count of violating Penal Code section 368,
15 subdivision (e) [elder/dependant adult theft], in the criminal proceeding entitled *The People of the*
16 *State of California v. Jeannette Padilla* (Super. Ct. San Luis Obispo County, 2011, No.
17 M000457750). The Court placed Respondent on 3 years probation, with terms and conditions.
18 The circumstances surrounding the conviction are that on or about December 22, 2010,
19 Respondent while working as an in-home provider used the credit card of S.H., the elder or
20 dependant adult under her care, to make several unauthorized purchases. During an investigation
21 by the San Luis Obispo Sheriff's Department, Respondent admitted to the officer that she had
22 bought items for herself and that she was intending to reimburse the victim at some point.

23 SECOND CAUSE FOR DISCIPLINE

24 (Acts Involving Dishonest Acts, Fraud, or Deceit)


25 11. Respondent is subject to disciplinary action under section 4301, subdivision (f), in
26 that Respondent committed acts involving dishonesty, fraud, or deceit with the intent to
27 substantially benefit herself, or substantially injure another. Complainant refers to, and by this
28 reference incorporates, the allegations set forth above in paragraph 10, as though set forth fully.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 103465, issued to Respondent;
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to section 125.3; and
3. Taking such other and further action as deemed necessary and proper.

DATED: 10/9/12


VIRGINIA HEROLD
Executive Officer
Board of Pharmacy
Department of Consumer Affairs
State of California
Complainant

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